

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

The State of Missouri, *et al.*,

Plaintiffs,

v.

President Joseph R. Biden, Jr., in his official capacity as President of the United States of America, *et al.*,

Defendants.

Civil Action No. 3:22-cv-1213

Judge Terry A. Doughty

Mag. Judge Kayla D. McClusky

**DEFENDANTS' RESPONSE TO THE KENNEDY PLAINTIFFS' MOTION FOR
CONSOLIDATION**

Pursuant to the Court's July 5, 2023 Order (ECF No. 295), Defendants respectfully submit this brief response to the *Kennedy* Plaintiffs' motion for consolidation (ECF No. 236). As set forth in Defendants' opposition to the preliminary injunction motion in the *Kennedy* action (currently pending decision), *see Kennedy, et al. v. Biden, et al.*, No. 3:23-cv-381, ECF No. 17 at 5-12, the *Kennedy* Plaintiffs lack standing to bring their claims (either as speakers or listeners), and the Court should therefore dismiss their complaint, rendering the request for consolidation moot. *See, e.g., Don't Dismyabilities, Inc. v. City of Dallas*, No. 3:17-CV-3026-L, 2017 WL 5626330, at *1 (N.D. Tex. Nov. 21, 2017) (denying preliminary injunction and dismissing without prejudice for lack of ripeness, even absent separate motion to dismiss). However, in the event the Court finds that the *Kennedy* Plaintiffs have sufficiently established standing, Defendants do not oppose the request for consolidation.

Dated: July 19, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

JOSHUA GARDNER
Special Counsel, Federal Programs Branch

/s/ Catherine M. Yang

KYLA SNOW (OH Bar No. 96662)
INDRANEEL SUR (D.C. Bar No. 978017)
KUNTAL CHOLERA (D.C. Bar No. 1031523)
AMANDA CHUZI (D.C. Bar No. 1738545)
CATHERINE M. YANG (N.Y. Bar No. 5319736)
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington D.C. 20005
Tel: (202) 514-4336
Catherine.m.yang@usdoj.gov

Attorneys for Defendants